

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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LANALSIKOU LOWE,

Plaintiff,

v.

METRO POLICE DEPARTMENT, ET AL.,

Defendants.

Case No. 2:18-cv-02134-JAD-DJA

**REPORT AND RECOMMENDATION**

This matter is before the Court on Plaintiff's failure to complete service on the Defendants prior to the expiration of the Fed.R.Civ.P. 4(m) deadline set for October 28, 2020. Plaintiff was permitted to proceed with the complaint on August 16, 2019 against only one of the two named Defendants – Sgt. Floyd. (ECF No. 5). The summons for Sgt. Floyd was returned unexecuted on September 23, 2019. (ECF No. 9). Plaintiff requested another opportunity to complete service on Sgt. Floyd and was granted an extension of time to do so on March 20, 2020. (ECF No. 11). Summons was again returned unexecuted on July 1, 2020. (ECF No. 16).

On September 28, 2020, Plaintiff was notified that the Fed.R.Civ.P. 4(m) deadline for dismissal due to failure to complete service was set for October 28, 2020. (ECF No. 24). To date, Plaintiff has failed to complete service on Sgt. Floyd. Further, the Court finds that Plaintiff has no plan to enable service to be completed. In fact, Plaintiff filed a Response to the Notice that indicates that Sgt. Floyd could not be located. (ECF No. 25). As such, the Court will recommend that this case be dismissed for failure to complete service by the Rule 4(m) deadline and any further extensions would be futile.

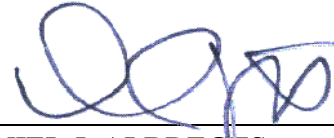
**RECOMMENDATION**

IT IS THEREFORE RECOMMENDED that this case be dismissed without prejudice pursuant to Fed.R.Civ.P. 4(m) for failure to complete service on Defendant.

**NOTICE**

Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED: February 16, 2021.



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DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE